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## BOOK REVIEWS.

FIRE INSURANCE, AS A VALID CONTRACT IN EVENT OF FIRE. George A. Clement. New York: Baker, Voorhis & Company. 1903. pp. xcvi. 637.

The plan of this work is novel, indeed. Its opening chapter deals not with the notion or history of insurance, as a branch of the law, but with the "Duty of the Insured at Time of Fire and Subsequent Thereto." A valid contract of insurance is assumed by the author to have been made, and he addresses himself to instructing the insured how to proceed in case of loss by fire. "The book," to use his own language, "is not a digest, nor is it a treatise, as these words are ordinarily understood and applied." It aims to formulate "practical rules affecting conduct," rather than to discuss principles or to criticise decisions. "There is not a question," he confidently declares, "that arises in case of fire, from the time of its occurrence until adjustment and payment, or in the event of a continuance of a dispute, until final decision by the highest Court to which the controversy can be submitted, but what the rules in this volume will be found applicable."

While our confidence in the universal applicability of these rules is not as serene as that of the author, we have no doubt that they will prove most helpful to any one who has to do with the adjustment of fire insurance controversies. The property owner will do well to make a careful study of this volume, if he has enough good sense to appreciate that even this book cannot make every man his own insurance lawyer. To the insurance adjuster, it should prove invaluable; and the busy lawyer will find it a most convenient book of reference.

The book is to be followed by another volume, in which the author will deal with those conditions in the ordinary fire insurance policy, which declare it void in specified events. But that work will be quite independent of this, he assures us. It will be of much less importance, too, in his opinion, we judge, for he states that "out of the many million dollars of loss claims annually, only a very small fraction is void." And yet, it is that small fraction that gives to the legal profession, both on the bench and at the bar, the most trouble. We shall await the forthcoming volume with interest.

CITIZENSHIP OF THE UNITED STATES. Frederick Van Dyne. Rochester: Lawyers' Co-Operative Pub. Co. 1904. pp. xxx. 385

The author of this admirable work has been for the past ten years Assistant Solicitor of the Department of State. The position is a sufficient guaranty in itself of a practical and professional familiarity with the vexed questions of citizenship in their international aspect. The book is ample proof of his mastery of the

subject in its theoretical aspect as well as in its origin and history. "The law of citizenship," he tells us in the preface, was "only to be found scattered through the acts of Congress, the decisions of the courts, and the rulings of the executive as they appear in state papers and diplomatic correspondence, many of the latter being unpublished and inaccessible. From these various sources the writer has sought to gather and arrange in a logical and convenient form, under one index, the law relating to the subject. The work has not been done with a view of establishing any preconceived notion of what the law should be, but with the design of showing what the law really is." The purpose thus outlined has been accomplished within the modest compass of less than four hundred pages in a style at once simple, lucid and felicitous.

Citizens he informs us are of two kinds, natural born or naturalized. To the first class belong all children born in and subject to the jurisdiction of the United States, (thus including children of parents in the diplomatic service and Indians not taxed); and children born abroad of an American father, provided that the father is a citizen at the time of the child's birth and provided further that such father has resided in the United States. This is in other words *jus soli* and *jus sanguinis*. The first is unquestionably sound in theory as well as in practice. *U. S. v. Wong Kim Ark* (1898) 169 U. S. 649. The principle of *jus sanguinis* is undoubtedly law but illogical and irrational in theory; for a child born in the United States is no more truly subject to the laws of the United States, than a child born in Canada is subject to Great Britain. Citizenship is determined by municipal not international law, witness our Statutes. The result, however illogical, is just, because our government does not seek to exercise authority over the foreign born, but admits them to the privileges of natural born citizens if they so elect. *Ludlam v. Ludlam* (1863) 26 N. Y. 356.

Part two deals exhaustively with citizenship by naturalization, including naturalization of the individual man or woman under the General Laws; naturalization by naturalization of parent, *Boyd v. Nebraska* (1892) 143 U. S. 178; naturalization by marriage; naturalization by treaty; naturalization by conquest; naturalization by special act of Congress and naturalization by admission of territory to statehood. In this part Mr. Van Dyne points out that the provisions of the statute do not apply to alien enemies and only to alien friends, such "aliens being free white persons and aliens of African nativity, and to persons of African descent." *U. S. v. Wong Kim Ark* (1898) 149 U. S. 649; *Re Kanaka Niau* (1889) 6 Utah. 259; *Re Saito* (1894) 62 Fed. 126; *Re Rodriguez* (1897) 81 Fed. 337. And finally even although the alien has the good fortune to be a Caucasian or African, he cannot be admitted if he disbelieves in, or is opposed to all organized government,—that is to say an anarchist. Act of March 3, 1903.

Are the inhabitants of Porto Rico and the Philippines citizens? To this question Mr. Van Dyne answers by citing the acts of Congress of Apr. 12, 1900 and July 1, 1902, by which the inhabitants

not claiming Spanish citizenship but continuing to reside therein are citizens of the respective Islands and as such entitled "to the protection of the United States." Entitled to protection as inhabitants or citizens? Until June 14, 1902, they could not claim passports for until that date passports were only issued to continental and insular citizens. By this act however passports were to be issued to them as residents of an insular possession of the United States. It is refreshing to note that the author does not commit this government to the protection of those who have only taken out their first papers. In part three, Mr. Van Dyne discusses in detail the subject of passports and gives the rules of 1902 governing the issuing of passports in the United States and in the insular possessions.

In the last part expatriation is discussed from a thoroughly sane and lawyer-like point of view. An American citizen may expatriate himself, and when he does he becomes simply a foreigner. To become again an American citizen he must be naturalized, as in the case of any other foreigner. As by marriage the wife acquires citizenship of husband, she becomes a foreigner if he is one, and by his death she remains what he was—a foreigner. There is a tendency, however, to treat the American widow as entitled to American citizenship if she desires to claim the privilege. This may be permitted but cannot well be required by statute as citizenship is a matter of municipal law and our law would have no extraterritorial effect. It would be more logical and better policy to require naturalization. Dissolution of marriage by divorce should have no effect on citizenship, that is the nationality of marriage remains. The final chapter of Mr. Van Dyne's book is devoted to the attitude of foreign governments toward their subjects and citizens naturalized in the United States. If the naturalized citizen remains in the United States, he and his relatives are not interfered with, except in Turkey and China; if however they return to the fatherland, they are tolerated rather than welcomed. If they have committed crimes before emigrating, or if they have fled to avoid military duty, or if they have not received permission of the mother country to expatriate themselves, interference or punishment occurs. But our government has resolutely refused to permit punishment in the home country, for any act or omission of the naturalized citizen in the United States.

In the appendix are given the various laws of the United States relating to citizenship and naturalization; and naturalization conventions to which the United States is a party.

The work is well proportioned with a single exception. The Insular cases are given sixty-two pages, pp. 162-224. A head note would state what the court really decided and statement and restatement in concurring opinions confuse rather than enlighten. A careful reading of the book and an examination of the authorities show that the subject of citizenship is discussed carefully and accurately; decisions of the courts, state and federal, are given, and the opinions of Secretaries of State and Attorneys-General are

quoted. The book is at once a credit to author and publisher and is one which lawyer, student and citizen will find of interest and profit.

THE ART OF CROSS-EXAMINATION. Francis L. Wellman. New York : The MacMillan Company. 1903. pp. 283.

It is only fair to the author to consider this volume as one in which he makes no pretense to present a scientific treatise on a difficult branch of trial practice, but aims to give to students and young practitioners valuable suggestions, and to the public an interesting view of one phase of legal activity; and so considered, it deserves commendation. The author's statements will not always bear close analysis, and certainly many of them will not receive universal acceptance, especially some of those appearing in the introductory chapter, such as the ones relating to the cause of the congestion of the trial calendars, and the diminution in important commercial litigation; but even these are well worth consideration and are made in such a manner as to demand attention. It is to be regretted that the chapter entitled "Silent Cross-Examination" was not made more exhaustive, and the dangers of unnecessary cross-examination more fully emphasized, since the temptation to try his skill, or lack of it, on every adverse witness is the one which the young lawyer seems least able to resist.

The chapter on "Cross-Examination to Credit" is capital, and the following statement which appears therein could hardly be improved upon, viz. :—"To warrant an investigation into matters irrelevant to the main issues in the case, and calculated to disgrace the witness or prejudice him in the eyes of the jury, they must at least be such as tend to impeach his general moral character and his credibility as a witness. There can be no sanction for questions that tend simply to degrade the witness personally, and which can have no possible bearing upon his veracity." It may be said without hesitation that the suggestions which are made in this volume as the result of a long and unusually large and successful practice as an advocate, and the experiences recounted well deserve and will well repay study by the young man ambitious to succeed as a trial lawyer; and that the author has achieved his purpose of interesting the public is manifest by the favorable notices of the book which have appeared in the daily press.

CASES ON CRIMINAL LAW. William E. Mikell. Part II. Philadelphia : International Printing Co. 1903. pp. 505 to 983.

In the preparation of Part II the author has maintained the high standard of excellence set by him in Part I. The method of selection and arrangement of cases corresponds closely to that of Part I, the most noticeable change being an increased proportion of English cases and a freer use of quotations from the early writers in Part II. As was indicated in the review of Part I, 3 COLUMBIA LAW REVIEW 362, Part II, includes cases on specific crimes only and the completed work therefore, provides no material for the study of the law of procedure at criminal law, extradition, or juris-